

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

February 10, 1999

DIVISION TWO

B121260 People (Not for Publication)
v.
Patterson

The Court:

The judgment is affirmed.

Nott, Acting P.J., Zebrowski, J., Mallano, J.(Assigned)

B109271 People
v.
Cloud, et al.

Filed order modifying opinion. (No change in the judgment)

B118472 People (Not for Publication)
v.
Diaz

The Court:

The judgment is affirmed.

Fukuto, Acting P.J., Nott, J., Zebrowski, J.

February 10, 1999-Continued

DIVISION TWO (Continued)

B114276 Tucker (Not for Publication)
v.
Insurance Company of North America et al.

The judgment is affirmed.

Nott, J.

We concur: Boren, P.J.
Mallano, J. (Assigned)

B118371 Zinke (Not for Publication)
v.
McAlpin, Doonan & Seese, et al.

The judgment is reversed with instructions to the trial court to overrule the demurrer. Plaintiffs to recover costs on appeal.

Nott, Acting P.J.

We concur: Zebrowski, J.
Mallano, J. (Assigned)

[illegible]

The order of July 30, 1997, surcharging appellant in the sum of \$35,025 based on his conduct while acting as the former administrator of the estate of Edwin August O. Hesemann, is affirmed.

Mallano, J. (Assigned)

We concur: Nott, Acting P.J.
 Zebrowski, J.

February 10, 1999-Continued

DIVISION TWO (Continued)

B123685 People (Not for Publication)
v.
Mark Charles H.

The judgment is affirmed.

Mallano, J. (Assigned)

We concur: Nott, Acting P.J.
 Zebrowski, J.

B127321 Cybermedia, Inc.
v.
Superior Court, L.A. County
Brown

Filed order modifying opinion and certifying opinion for partial publication.
(No change in the judgment)

B119723 Seekers USA, Inc. (Not for Publication)
v.
Nober, et al.

The judgment is reversed, with directions to overrule the demurrers. The parties shall bear their own costs.

Mallano, J. (Assigned)

We concur: Nott, Acting P.J.
 Zebrowski, J.

DIVISION TWO (Continued)

B123195 Toxin (Not for Publication)
v.
MAC Records, Inc.

To the extent it dismissed the third and fourth counts of the first amended complaint, for breach of written agreement and for breach of oral agreement, the judgment is reversed. In all other respects, the judgment is affirmed. Costs to appellant.

Nott, J.

We concur: Boren, P.J.
Mallano, J. (Assigned)

DIVISION THREE

B112263 International Longshoremen's & Warehousemen's Union, et al.
v.
Los Angeles Export Terminal, Inc.

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

DIVISION FOUR

B117627 People (Not for Publication)
v.
Scott

The abstract of judgment is ordered corrected to reflect a total of 350 days persistence credit; the judgment otherwise is affirmed.

Hastings, J.

We concur: Vogel (CS), P.J.
Epstein, J.

February 10, 1999-Continued

DIVISION FOUR (Continued)

[illegible]

The judgment is affirmed.

Hastings, J.

We concur: Vogel (CS), P.J.
Epstein, J.

B119961 People
v.
Tilman

Filed order modifying opinion. (No change in the judgment)

B118475 People
v.
Miller

Filed order denying petition for rehearing.

DIVISION FIVE

B123051 People (Not for Publication)
v.
Angelo Mack

The judgment is modified to add an additional \$5,000 restitution fine pursuant to Penal Code section 1202.45, payment of which is suspended until defendant violates a condition of parole, if such circumstances ever arise. In all other respects, the judgment is affirmed. The clerk of superior court is directed to prepare an amended abstract of judgment containing the correct case number which reflects both fines and forward it to the Department of Corrections.

Turner, P.J.

We concur: Grignon, J.

February 10, 1999-Continued

Armstrong, J.

DIVISION FIVE (Continued)

B116805 People
 v.
 Toney McGee

On the court's own motion the remittitur issued June 10, 1998, is ordered recalled; opinion filed April 8, 1998, is ordered refiled as of the date of this order.

DIVISION SIX

Court convened at 9:00 A.M.

Present: Gilbert, Acting P.J., Yegan, J., Coffee, J., Burke, J. (Assigned), and G. Bents, Deputy Clerk.

Each of the following:

B113750 Granberry v. Islay Investments
B117200 Mercury Ins. Co. v. Frederick

Argument continued to March, 1999 calendar.

B117894 Meza
 v.
 Robertson

Merits:
Argued by James E. Blancarte for appellant and by Brian P. Barrow for respondent. Cause submitted.

B114258 Sutherland
 v.
 North American Specialty Ins. Co.

Merits:
Argued by Suzelle M. Smith for appellant and by Scott P. Ward for respondent. Cause submitted.

DIVISION SIX (Continued)

B114158 Umanzor
 v.
 Colonial Penn Insurance Co.

Merits:
Argued by Chad Main for appellant and by Richard T. Collins for
respondent. Cause submitted.

B114341 Pruitt
 v.
 General Motors Corporation

Merits:
Argued by Kevin M. Fillo for appellant and by Leslie Landau for
respondent. Cause submitted.

B115217 Campbell
 v.
 Alger

Merits:
Argued by M. Reed Hunter for appellant and by Robert R. Orellana,
Assistant County Counsel, for respondent. Cause submitted.

B117274 Ventura Co. Flood Control Dist.
 v.
 Campbell

Merits:
Argued by Dennis L. Slivinski, Assistant County Counsel, for appellant-
cross respondent and by M. Reed Hunter for respondent-cross appellant.
Cause submitted.

Court recessed at 11:25 A.M.

DIVISION SIX (Continued)

Court reconvened at 11:30 A.M.

Present: Gilbert, Acting P.J., Yegan, J., Coffee, J., Burke, J. (Assigned), and G. Bents, Deputy Clerk.

B117239 Marriage
 v.
 Davis

Merits:

Argued by Paige Leslie Wickland for appellant-cross respondent and by Bernard N. Wolf for respondent-cross appellant. Cause submitted.

Yegan, J. leaves the bench.

B114776 Lee
 v.
 City of Rancho Palos Verdes

Merits:

Argued by Teng Li-Ann Lee, appellant appearing in propria persona, and by Gregory M. Kunert for respondent. Cause submitted.

Court recessed at 12:37 P.M.

Court reconvened at 1:30 P.M.

Present: Gilbert, Acting P.J., Yegan, J., Coffee, J., Burke, J. (Assigned), and G. Bents, Deputy Clerk.

B122029 Doerfler
 v.
 Bank of Ventura

Appearances:

William H. Hair for respondent and appellants having waived argument. Argument waived, cause submitted.

DIVISION SIX (Continued)

B121102 Hutchings
 v.
 Hurtado

Merits:

Argued by Bradley A. Arnold for appellant and by Daniel P. Barer for respondent. Cause submitted.

B119641 Cain & Weiner Co., Inc.
 v.
 Bursai Corp., et al.

Merits:

Argued by Steven J. Shapero for appellant, Howard J. Ettinger for respondent Cain & Weiner Co., Inc. and by John S. Purcell for respondent Densitron Corp. Cause submitted.

B121996 Vortex Productivity Centers
 v.
 Irving Kirsch Corp.

Merits:

Argued by Andrew K. Whitman for appellant and by John P. DeGomez for respondent. Cause submitted.

B118206 Estate of Harold H. Hauser
 v.
 Sacks

Merits:

Argued by J. Roger Myers for appellant and by Thomas N. Charchut for respondent. Cause submitted.

Court recessed at 3:15 P.M.

DIVISION SIX (Continued)

Court reconvened at 3:25 P.M.

Present: Gilbert, Acting P.J., Coffee, J., Burke, J. (Assigned), and G. Bents, Deputy Clerk.

B115102 Chandler
 v.
 American Broadcasting Companies, Inc.

Merits:

Argued by Stephen F. Rohde for appellant and by Steven M. Perry for respondents. Cause submitted.

Yegan, J. returned to the bench.

B118416 Baum
 v.
 J.C. Penney Co., Inc.

Merits:

Argued by Margaret Johnson Wiley for appellant and by Gilbert S. Maguire for respondent. Cause submitted.

B120276 Hiratani
 v.
 General Telephone

Merits:

Argued by Koshin Hiratani, appellant appearing in propria persona, and no appearance by respondent pursuant to Rule 17(b) of the California Rules of Court. Appellant lodges a color copy and reporter's transcript with the court's permission.

The lodged reporter's transcript is returned to appellant pursuant to his request. Cause submitted.

Yegan, J. leaves the bench.

DIVISION SIX (Continued)

B118435 Strange
v.
Burnap, et al.

Merits:

Argued by Gerald Z. Marer for appellant, and by William Hair and Russell G. Allen for respondent. Argument previously waived by petitioner Owen W. Strange.

Counsel are directed to serve and file simultaneous letter briefs within 10 days.

Cause submitted.

Court adjourned at 5:30 P.M.

DIVISION SEVEN

B114479 People (Not for Publication)
v.
McGee

The judgment is modified to impose a \$200 parole revocation restitution fine, which is suspended until such time as appellant is imprisoned after revocation of his parole. In all other respects, the judgment is affirmed. The court shall cause its clerk to send an amended abstract of judgment to the California Department of Corrections which includes the restitution fines which are part of the judgment.

Woods, J.

We concur: Johnson, Acting P.J.
 Neal, J.

DIVISION SEVEN (Continued)

B117192 Los Angeles County, D.C.S. (Not for Publication)

v.

Gary O.

In re Gary O., a minor

The order is affirmed.

Woods, J.

We concur: Johnson, Acting P.J.
 Neal, J.

B125018 Thomloi (Not for Publication)

v.

Ashikian

Affirmed. Respondent is entitled to costs incurred in connection with the appeal.

Woods, J.

We concur: Johnson, Acting P.J.
 Neal, J.

B119203 Arnone (Not for Publication)

v.

McMillan

The order is affirmed. Respondents to recover costs on appeal.

Woods, J.

We concur: Johnson, Acting P.J.
 Neal, J.

DIVISION SEVEN (Continued)

B117199 Lohaiza (Not for Publication)
v.
Ungo

As to U & A and Blue Pacific, the appeal is dismissed. As to Ungo, Jr., the judgment is affirmed. Respondents to recover costs on appeal.

Woods, J.

We concur: Lillie, P.J.
Johnson, J.

B122796 Krupnick & Associates (Not for Publication)
v.
Zuziak

The judgment is affirmed. Respondents are awarded their costs of appeal.

Woods, J.

We concur: Lillie, P.J.
 Johnson, J.

B118482 People (Not for Publication)
v.
Mora

The judgment is modified to impose a \$200 parole revocation restitution fine under Penal Code section 1203.45, which shall be suspended until such time as appellant violates his parole and is recommitted to state prison for this offense. As modified, the judgment is affirmed. The superior court shall have its clerk amend the abstract of judgment to conform to the judgment and to state that separate \$200 restitution fines were imposed under Penal Code sections 1202.4 and 1202.45, and the latter fine was suspended.

Johnson, J.

We concur: Lillie, P.J.
Neal, J.

DIVISION SEVEN (Continued)

[illegible]

We vacate the disposition order insofar as it fails to provide whether the assaults are misdemeanors or felonies and lacks a finding for the theoretical maximum period of confinement and remand for the court to make such orders. In all other respects, the orders under review are affirmed.

Johnson, Acting P.J.

We concur: Woods, J.
Neal, J.

B117782 The Estate of Rose Arman (Not for Publication)
v.
The Estate of David H. Antrobus

The judgment is affirmed. Costs on appeal are awarded to respondents.

Johnson, Acting P.J.

We concur: Woods, J.
Neal, J.

B118932 Jerrienne L. Latham (Not for Publication)
v.
Elizabeth Aguilar

The court's orders imposing mutual restraining orders are affirmed. Respondent to recover her costs of appeal.

Johnson, J.

We concur: Lillie, P.J.
Neal, J.

DIVISION SEVEN (Continued)

B124357 Los Angeles County, D.C.S. (Not for Publication)
 v.
 Michael R.

The judgment is affirmed.

Neal, J.

We concur: Johnson, Acting P.J.
 Woods, J.

B122358 People (Not for Publication)
 v.
 Liston G.

The orders under review are affirmed.

Neal, J.

We concur: Lillie, P.J.
 Johnson, J.